

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Evergreen Oil, Inc.
6880 Smith Avenue
Newark, California 94560

ID No. CAD 980 887 418

Respondent.

Docket HWCA 2005 0915

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Evergreen Oil, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, and stores of hazardous waste at the following site: 6880 Smith Avenue in Newark, California 94560 (Site).

1.3. Inspection. The Department inspected the Site on June 21 and 22 and on July 12, 2005.

1.4. Authorization Status. The Department authorized Respondent to manage hazardous waste by Hazardous Waste Facility Permit dated December 1, 2004.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the

terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.2. The Respondent violated California Code of Regulations, title 22, section 66264.175, subsection (b)(1) in that on or about June 21, 2005, Respondent failed to maintain container transfer secondary containment area free of cracks and gaps.

2.3. The Respondent violated California Code of Regulations, title 22, section 66264.73, subsection (b)(2) in that on or about June 21, 2005, Respondent failed to track in its operating log some of the hazardous waste received at its facility. To wit: Respondent failed to record in its operating log the hazardous waste stored in trucks parked in the loading and unloading area.

2.4. The Respondent violated California Code of Regulations, title 22, section 66264.15, subsection (d) in that on or about June 21, 2005, Respondent failed to record in its inspection log a notation of observations made regarding cracks and gaps observed at the container transfer area (loading and unloading).

2.5. The Respondent violated Health and Safety Code, section 25202, subdivision (a), and Hazardous Waste Facility Permit dated December 1, 2004, Part III, General Condition 2 (b), in that on or about June 21, 2005, Respondent conducted truck-to-truck activity without providing adequate secondary containment.

3. SCHEDULE FOR COMPLIANCE

3.1. The Respondent has corrected the violations cited above. The Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.8. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$9,000.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher

to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Robert Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 5/23/2006

Original signed by Gary Colbert
Respondent

Dated: 6/5/2006

Original signed by Robert Kou
Robert Kou, Unit Chief
Glendale Branch
Statewide Compliance Division
Department of Toxic Substances Control